

HOUSE COMMITTEE ON GENERAL GOVERNMENT

April 21, 1997 Hearing Room D

1:00 P.M. Tapes 82 - 84

**MEMBERS PRESENT:**

Rep. Ken Strobeck, Chair

Rep. Dan Gardner, Vice-Chair

Rep. Jim Hill

Rep. Bob Montgomery

Rep. Kurt Schrader

Rep. Liz VanLeeuwen

Rep. Tom Whelan

**STAFF PRESENT:**

Jeri Chenelle, Administrator

Annetta Mullins, Administrative Support

**MEASURE/ISSUES HEARD:**

HB 3034 - Public Hearing

HB 2909 - Public Hearing

HB 2910 - Public Hearing

HB 2911 - Public Hearing

HB 2796 - Public Hearing

**These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.**

Tape/#	Speaker	Comments
Tape 82, A		
002	Chair Strobeck	Calls meeting to order at 1:15 p.m. and opens the public hearing on HB 3034.

<b>HB 3034 - PUBLIC HEARING</b>		
009	Jeri Chenelle	Administrator, reviews provisions of HB 3034.
020	Dale Bell	Bell Heating, and Oregon Chapter of Air Conditioning Contractors of America, testifies in support of HB 3034:
		* problem is multiple licensing
		* legislation would allow heating and air conditioning contractors to have one license to do the same work they are doing today
		* ease burden on industry
027	Pat Bridges	Director of Technology and Codes, Oregon Building Industries Association, offers to answer questions.
		Issues discussed:
034		* cost of proposed legislation
037		* electrical installations
055		* safety awareness
061		* agency source of multiple licenses
066		* whether all licenses would come from single source under legislation
		* intent is to have one license to cover all aspects of heating, ventilation and air conditioning (HVAC) installations
077	Gary Wright	Local 290 Plumbers and Fitters, introduces John Endicott, and testifies in opposition to HB 3034:
		* health and safety issue
		* page 2, Section 6 repeals all plumbing laws
		* there is no requirement for education and training
092	John Endicott	Local 290 Plumbers and Fitters, and member of safety committee, testifies in opposition to HB 3034:
		* safety concerns
		* training is provided by union
098	Joe Brewer	Building Codes Division, testifies about concerns with HB 2034 <b>(EXHIBIT A)</b> .
		Issues discussed:
127		* whether HVAC installations require licensed workers
142	Brewer	Continues presentation <b>(EXHIBIT A)</b> .
		Adds there is fiscal impact; it would take time to put the program together.
		Issues discussed:
178		* fiscal impact for 97-99 biennium is \$116,833 based on licensing 1,500 licensees at \$150 per license; if bill were amended to include

		licensing all workers, the impact would have be reevaluated
		* department is in favor of licensing HVAC contractors
186		* training necessary to become licensed to install heating and air conditioning
224		* number of licenses that would be required: plumbing, electrical, and contractor license
235	Dale Bell	Explains that anybody on the board can apply for a contractors license and "you are one." Currently they must obtain three electrical licenses: one license is for low voltage wiring; plumbing work beyond the shutoff valve has to be done by a licensed plumber and believe it should stay that way.
		Issues discussed:
240		* whether this is a mandate
		* whether municipalities are responsible for inspections
274		* licensing fees address only the cost of the Building Codes Division and the inspections Building Codes performs; fees for permits cover the cost of inspections in the local jurisdiction
311		* Section 8 and disconnect switches
330	John Gervais	National Electrical Contractors Association, testifies in opposition to HB 3034 because it removes safety factors from the present law.
		* explains law that allows contractor to pay \$125 and list his employees
		* new board is not necessary
		Issues discussed
358		* responsibility of contractors for installers
392	Chair Strobeck	Closes public hearing on HB 3034 and opens public hearings on HB 2909 and HB 2910.
<b><u>HB 2909 AND HB 2910 - PUBLIC HEARINGS</u></b>		
408	Jeri Chenelle	Administrator, reviews provisions of HB 2909
425	Jeri Chenelle	Administrator, reviews provisions of HB 2910.
<b>TAPE 83, A</b>		
010	David Douthwaite	Government Relations Manager, Associated General Contractors, introduces Kevin Spellman.
013	Kevin Spellman	Associated General Contractors, testifies in support of HB 2910 ( <b>EXHIBIT B</b> ) and proposes amendments ( <b>EXHIBIT C</b> ).
035	Spellman	Continues presentation.
085	Spellman	Testifies in support of HB 2909 ( <b>EXHIBIT D</b> ) and proposes amendments ( <b>EXHIBIT E</b> ).

122		Issues discussed:
		* lawsuit
145	Cameron Birnie	Administrator, Transportation, Purchasing and Print Services Division, Department of Administrative Services, introduces Terry Meehan, Assistant Attorney General, Oregon Department of Justice.
147	Terry Meehan	Oregon Department of Justice, reviews provision of current law and HB 2909:
		* effect of bill is if contract is voided, and the contractor did not knowingly commit illegal practice, state pays for services rendered
173		* concern is the legislation may go beyond what was intended; it does not ask why the contract was voided; reasons may be the person did not have the authority to contract, or failed to follow the process
		* federal government allows payment if the government receives a substantial benefit; Oregon's attorney general office advises agencies they do not have the authority to pay
191		* bill does not consider why contract was found to be void
		* believes there needs to be authority where if the process has been irregular that the government could "regularize" the process and somehow pay for the services rendered, or, if the agent did not have the authority to contract, the contracting agency could ratify the acts of the agent if the government needs those services
		Issues discussed:
		* whether HB 2909 is needed
217		* how to include shared responsibility
235		* HB 2322
249		* Section 2 of HB 2910 on requirement for public hearing
285	Steve Telfer	Executive Director, Associated Builders and Contractors, states his organization supports HB 2909.
295	Steve Telfer	Associated Builders and Contractors, testifies in support of HB 2910 with the -1 amendments ( <b>EXHIBIT C</b> ), especially Section 2 (3)(a) through (e):
		* comments on the requirement for the extra hearing
306		* small cities want to use alternative contracting procedures
		* some contractors do not feel negotiated contracts are best; believes it is important to specify the findings and allow others to comment on them before proceeding to the alternative contracting process
		* Section 2, (3)(a) -(e) does what Associated Builders and Contractors want
		* believes it is important to do post-product evaluation to learn from

3506		the successes and failures, then come back to clean up the law if necessary; that is what Section 4 of the -1 amendments do.
		Issues discussed:
365		* changes in scope of project without new bids
400		Discussion continues on changes to project without consideration for other potential bidders.
<b>TAPE 82, B</b>		
022	Douthwaite	Explains the legislation has been drafted to make it permissive for the public agency so they can make a good informed choice; it gives the agency the option of talking to the low bidder, and that it is limited to the low bidder.
032		Discussion continues on altering contracts to drastically change the scope of the project.
062	Douthwaite	Explains when this was discussed by the coalition, a number of large and small public agencies participated, and that the sense was this was a tool they would like to have when projects are over their cost estimate, but not substantially so; they realized that if the project was substantially over the cost estimate, they would need to redesign it and possibly re-bid it.
067	Rep. Hill	Asks if they would accept a 10 percent differential to give some guidance as to when they would have to re-bid.
070	Douthwaite	Responds that may be an option.
072	Rep. VanLeeuwen	Notes that subsection (4) of Section 3 of HB 2910 has a \$25,000 figure and the -1 amendments (page 5, Section 4) says \$100,000, and asks if it deals with the same process where they did not use the competitive bidding process.
080	Telfer	Comments that on page 5, Section 4 of the -1 amendments, the number is a threshold that would apply for the post project reviews where the alternative contracting process was being used; they think for projects under \$100,000, it probably isn't worth the time or energy for somebody to have to prepare the review and evaluation.
098	Chair Strobeck	Notes the language Rep. VanLeeuwen is referring to is in the amendment on page 4, starting in line 25.
107	Bill Penhollow	Association of Oregon Counties (AOC) testifies in support of the concept in -1 amendments to HB 2910:
116		* participated in the coalition
122		* supports concept of a negotiated contract where the lowest responsible bidder is above the budgeted amount or the engineer's estimate as an additional tool in the existing statute; the only recourse currently is to reject all bids and go back through the process again
130		* the 10 percent would be a matter for rules under this provision
		* concern with -1 amendment on page 4, lines 12 - 17 indicate that

136		if a public agency is required to act promptly due to circumstances beyond its control, they may go ahead and solicit proposals at the same time they publish providing the response for the solicitations are due at least five days after the meeting and the approval of the findings
150		* could be interpreted to impede on the provisions in line 20 with regard to emergencies; wants to make it clear that the language in lines 12 through 17 does not affect the public agency's authority under line 20 and line 25 and following
		* suggest additional language in line 12, before "if" to say something like "notwithstanding the provisions of subsection (4)(a) and (5) of this section if the agency is required to act promptly".
		Issues discussed:
169		* when a situation would require immediate action if there is no emergency
224		* value of report required in Section 4 of the -1 amendments
252	David Barenburg	League of Oregon Cities (LOC), comments he echoes Penhollow's comments, and suggests a further amendment to clarify the emergency section in HB 2910.
293	Chair Strobeck	Closes the public hearings on HB 2909 and 2910 and opens the public hearing on HB 2796.
<b><u>HB 2796 - PUBLIC HEARING</u></b>		
303	Frank Brawner	Oregon Bankers Association and the Independent Community Banks of Oregon, testifies in support of HB 2796 <b>(EXHIBIT F)</b> .
358	Chair Strobeck	Advises that the committee will request the amendments from Legislative Counsel.
354	Chair Strobeck	Closes the public hearing on HB 2796 and opens the public hearing on HB 2911.
<b><u>HB 2911 - PUBLIC HEARING</u></b>		
378	Jeri Chenelle	Administrator, reviews provisions of HB 2911.
3805	David Douthwaite	Associated General Contractors, introduces Todd Hess.
390	Todd Hess	Associated General Contractors, testifies in support of HB 2911 <b>(EXHIBIT G)</b> .
420	Hess	Continues presentation.
<b>TAPE 83, B</b>		
017	David Douthwaite	Associated General Contractors, testifies in support of HB 2911 <b>(EXHIBIT H)</b> .

050	Douthwaite	Continues presentation
		Issues discussed
		* whether this proposal increases the cost to public agencies
		* inclusion of all costs by agency
107		* cost of independent third-party review
		* whether this would be an unfunded mandate
144		* whether this would cause the taxpayer to pay twice
177		* cases which have caused this legislative proposal
201	Rick Cardoza	Portland Water Bureau, introduces Bob Rieck.
213	David Barenburg	League of Oregon Cities, testifies in opposition to HB 2911:
		* bill seeks to fix problem that exists only in very limited circumstances; thinks system is working and can address the problems
		* bill imposes very stringent cost accounting requirements beyond what is already required by state law for local governments
229		* process in bill would set forth private administration of contracts or work of a state agency
		* definition of "independent" in lines 2-4 on page 2 does not allow or raise the issue of another component of the local government overseeing contracts
		* punitive part of the bill would penalize the general public
		* the circumstance raised was within a local government which has an elected government that has responsibility for oversight of its operations and has the interest of the public in trying to complete public works projects at the lowest possible cost
269	Bob Rieck	Finance Director, Portland Water Bureau, testifies in opposition to HB 2911 <b>(EXHIBIT I)</b> .
305	Rieck	Continues presentation.
350	Rick Cardoza	Portland Water Bureau, testifies in opposition to HB 2911 <b>(EXHIBIT J)</b> .
		Issues discussed:
389		* allocation of overhead by government agencies
420		Discussion continues on allocation of overhead costs.
<b>TAPE 84, A</b>		
020	Bill Penhollow	Association of Oregon Counties (AOC), introduces Larry Eisenberg and Mike Maloney from Washington County, and comments they feel the existing statutes more than adequately cover the issue.
038	Mike Maloney	Facilities Director for Washington County Road and Bridges, testifies in opposition to HB 2911:

		* Washington County abides fully with the least cost provisions in current law
		* some provisions which apply to road projects are not in ORS 279 and that might be the appropriate place to require compliance with the accounting guidelines administered by the Department of Administrative Services.
		* Washington County loads all overhead costs into project costs; if one jurisdiction is not doing it, this may not be the best way to address the problem
051		* the requirements in (3)(b) for the independent evaluation and inspection would be some considerable costs
		* number of provisions are unnecessary and will add to the transportation projects
066	Larry Eisenberg	Facilities Manager, Washington County, submits statement <b>(EXHIBIT K)</b> and testifies in opposition to HB 2911.
092	Vice Chair Gardner	Closes public hearing on HB 2911 and adjourns meeting at 3:14 p.m.

Submitted By, Reviewed By,

Annetta Mullins, Jeri Chenelle,

Administrative Support Administrator

**EXHIBIT SUMMARY**

**A - HB 3034, prepared statement, Joe Brewer, 2 pp**

**B - HB 2910, prepared statement, Kevin Spellman, 21 pp**

**C - HB 2910, HB 2910-1 amendments, Kevin Spellman, 6 pp**

**D - HB 2909, prepared statement, Kevin Spellman, 1 p**

**E - HB 2909, HB 2909-1 amendments, Kevin Spellman, 1 p**

**F - HB 2796, prepared statement, Frank Brawner, 4 pp**

**G - HB 2911, prepared statement, Todd Hess, 2 pp**

**H - HB 2911, prepared statement, David Douthwaite, 3 pp**

**I - HB 2911, prepared statement, Bob Rieck, 6 pp**

**J - HB 2911, prepared statement, Rick Cordoza, 1 p**



**K - HB 2911, prepared statement, Larry Eisenberg, 2 pp**